

# Solihull secondary Fair access protocol

Solihull secondary fair access panel

November 2021

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## Introduction and regulations

The School Admissions Code requires each local authority to have a Fair access protocol which has been agreed by the majority of the schools in its area. All mainstream schools, which include academies, free schools and trust schools are required to participate in their local authority's Fair access protocol.

## Children subject to the Fair access protocol

The following list brings together the categories of children identified in the Admissions Code 2021. The ability to include locally defined categories has been removed in the 2021 Admissions Code.

Fair access protocols may only be used to place the following groups of vulnerable and/or hard to place children, where they are having difficulty in securing a school place in year, and it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures.

Eligibility for the Fair access protocol does not limit a parent's right to make an in-year application to any school for their child. Admission authorities must process these applications in accordance with their usual in-year admission procedures. They must not refuse to admit such children on the basis that they may be eligible to be placed via the Fair access protocol. The parent will continue to have the right of appeal for any place they have been refused, even if the child has been offered a school place via the Fair access protocol.

Any children not resident in Solihull will be subject to arrangements made by their home local authority

- a. children either subject to a **Child in need plan** or a **Child protection plan** or having had a Child in need plan or a Child protection plan within 12 months at the point of being referred to the protocol;

- b. children living in a refuge or in other relevant accommodation at the point of being referred to the protocol;
- c. children from the criminal justice system;
- d. children in alternative provision who need to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education;
- e. children with special educational needs (but without an Education, health and care plan), disabilities or medical conditions;
- f. children who are carers;
- g. children who are homeless;
- h. children in formal kinship care arrangements
- i. children of, or who are, Gypsies, Roma, Travellers, refugees, and asylum seekers
- j. children who have been refused a school place on the grounds of their challenging behaviour and referred to the protocol in accordance with paragraph 3.10 of this code<sup>1</sup>
- k. children for whom a place has not been sought due to exceptional circumstances

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<sup>1</sup> *Extract from the school admissions code*

*3.10 Where an admission authority receives an in-year application for a year group that is not the normal point of entry and it does not wish to admit the child because it has good reason to believe that the child may display challenging behaviour, it may refuse admission and refer the child to the Fair access protocol*

*3.11 An admission authority should only rely on the provision in paragraph 3.10 if it has a particularly high proportion of either children with challenging behaviour or previously permanently excluded pupils on roll compared to other local schools and it considers that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources.*

*3.12 The provision in paragraph 3.10 cannot be used to refuse admission to looked after children, previously looked after children; and children who have Education, Health and Care Plans naming the school in question.*

- l. children who have been out of education for four or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted
- m. previously looked after children for whom the local authority has been unable to promptly secure a school place

This protocol is designed to provide a framework within which all schools in Solihull work together to admit their fair share of children that may need additional support and intervention to change school.

Where it has been agreed that a child will be considered under the Fair access protocol, a place must be allocated for that child within 20 school days. Once they have been allocated a place via the Fair access protocol, arrangements should be made for the child to start as soon as possible.

Children placed through the Fair access protocol will be given priority for admission over others on a waiting list or those awaiting an appeal.

Although there is no duty to comply with parental preference when placing through the protocol, where possible, consideration will be given to all factors that support good attendance and achievement.

Generally, schools can only refuse an application for admission if;

- The school can demonstrate that further admission would cause prejudice to the provision of efficient education and use of resources, or
- The pupil has been permanently excluded from two schools and the most recent exclusion was within the previous two years.

If a school is refusing to offer a place to a child that does not satisfy the Fair access protocol criteria for any reason other than the two detailed above these reasons must be provided to Solihull Council in writing and the council may ask the Fair access panel to consider the case.

## **Fair access protocol process: Level 1**

Applications received from a Solihull child, new to the borough, who satisfies the criteria set out in 2. above, will be processed as a level 1 Fair access protocol application.

Following receipt of a complete application, the council will identify an appropriate school taking into consideration various factors. These factors may include; catchment-area, faith, location and accessibility of the school, number of Fair access

protocol children (level 1 and level 2) previously placed, parental preference, mobility levels, vacancies and number of permanent exclusions.

The identified school will be asked to consider the admission under the Fair access protocol level 1. A response to the request is expected within five school days. If a place can be offered the child is expected to start within five school days. If the target school declines to admit the child, the case is referred to the Fair access panel.

Where the target school does not respond to Solihull Council's request to consider an admission within 5 days, the council will assume that the child can be offered a place. An offer letter will be sent to the parent explaining that the child is expected to start within a further 5 days. A copy of the offer letter will be sent to the school.

In cases where the school delays admission which leads to the council being required to make interim provision the Fair Access Panel can agree that the council recharge the school with the cost of the interim provision.

## **Fair access protocol: Level 2**

In some exceptional cases, applications for a change of school can be more complex. These applications will be recorded as level 2 and considered by the Fair access panel. Such cases are likely to include:

- Year 11 school applications for Solihull children new to the borough
- Children attending a Solihull school at significant risk of permanent exclusion
- Children on roll of a Solihull school where the head teacher believes that a permanent change of provision (another school or alternative provision) is in the best interest of the child. (Maybe as a consequence of very low attendance etc)
- Children wishing to return from a period of elective home education (EHE)

## **Fair access panel**

The Fair Access Panel has the following functions:

- 1 Consider level 1 applications where Solihull Council and the target schools are in dispute and admission has not been secured.
- 2 Consider appropriate provision for level 2 applications, managed transfers and other requests from schools.
- 3 Consider all referrals from schools for alternative provision.

Referrals to the Fair access panel must be accompanied by a completed referral form and other associated documentation which the referrer deems necessary for the panel to make a decision about future placement needs.

The panel will consist of representatives from appropriate school/AP provisions and appropriate council representatives

The Fair access panel will consider each case and agree a school or appropriate alternative provision for the child.

If the school determined by the panel will not admit the pupil or the panel cannot reach agreement as to which school should be offered, the LA will make a determination and seek a direction to admit the child through the appropriate channels.

In some cases, a child may be allocated a school, but the parent does not accept the place. In this circumstance the school should hold a place and the case referred to the Solihull Education enforcement team who will consider issuing a School Attendance Order. The order will name the school identified through the admissions process or the Fair access protocol. The child should not be put on to the school roll until they start to attend.

Following notification of the panel's decision, the identified school should make arrangements to admit the child within 5 school days.

## **Alternative provision**

The Fair access panel will consider all referrals for a place at Solihull AP Academy against the academy's admission arrangements to determine which students should be offered places. It is anticipated that this process will result in a significant reduction in students being permanently excluded.

## **Monitoring and reporting**

The Fair access panel will define a basic dataset that will be made available at each meeting. This is likely to include school level data on in-year admissions (normal, level 1 and level 2) and permanent exclusions.

Solihull Council's Children missing education and pupil tracking team will check the attendance of children placed by the panel to verify that children have started. Attendance will be reviewed after 12 months in order to facilitate reporting of the effectiveness of the Fair access protocol.

The council will monitor the effectiveness of the Fair access protocol and provide regular reports to the Director of Children's Services and the Fair access panels. This information will be used in the council's annual report to the Schools' Adjudicator.

## **Finance**

Solihull Schools Forum has previously agreed a process whereby the pupil-led element of funding follows the child when s/he moves between provisions. This transfer of funding presently takes place in a number of circumstances, and it is proposed that consideration is given to the funding deduction being applied in the case of all pupils removed from roll that remain in the area. This funding pot could then allow for all children transferring between local schools through the Fair access protocol to attract the AWPU.